

KAREN J. IMMERGUT, OSB#96314
United States Attorney
THOMAS L. SANSONETTI
Assistant Attorney General
Environment and Natural Resources Division
JEAN E. WILLIAMS, Chief
Wildlife and Marine Resources Section

KRISTEN L. GUSTAFSON, Trial Attorney
Wildlife and Marine Resources Section
Environment and Natural Resources Division
U.S. Department of Justice
Ben Franklin Station, P.O. Box 7369
Washington, D.C. 20044-7369
(202) 305-0210 (tel.)
(202) 305-0275 (fax)
Kristen.Gustafson@usdoj.gov

Attorneys for Defendants

UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

DEFENDERS OF WILDLIFE, et al.

ACTION: CV 03-1348 JO

Plaintiffs,

v.

GALE NORTON, et al.

Defendants.

STATE OF WYOMING; STATE OF IDAHO, et al.;
STATE OF MONTANA; OREGON CATTLEMEN'S
ASS'N; SAFARI CLUB INT'L; SAFARI CLUB INT'L
FOUND'N; AMERICAN FARM BUREAU FED'N;
and OREGON HUNTERS' ASS'N.

FEDERAL DEFENDANTS'
MOTION TO DISMISS
AND FOR
SUMMARY JUDGMENT

Defendant-Intervenors.

Pursuant to District of Oregon Local Rule 7.1 through telephone conferences the Federal Defendants and Plaintiffs have made a good faith effort to try to resolve the legal issues that are the subject of this motion. The parties were, however, unable to narrow their area of disagreement.

Federal Defendants' motion presents the following questions for decision by the Court:

- (1) Should the Court grant Federal Defendants' Motion to Dismiss Count 1, paragraphs 106(g), 107, and 110(d) of Plaintiffs' First Amended Complaint for lack of subject matter jurisdiction under Fed. R. Civ. P. 12(b)(1)?
- (2) Should the Court grant Federal Defendants' Motion to Dismiss Count 1, paragraph 107 of Plaintiffs' First Amended Complaint for failure to state a claim under Fed. R. Civ. P. 12(b)(6)?
- (3) Should the Court grant Federal Defendants' Motion for Summary Judgment under Fed. R. Civ. P. 56 on the remainder of Count 1, paragraphs 105-110 of Plaintiffs' First Amended Complaint?

For the reasons set forth in the Memorandum accompanying this Motion, Federal Defendants respectfully request that the Court grant Federal Defendants' Motion to Dismiss and for Summary Judgment.

Dated: September 15, 2004

Respectfully Submitted,

KARIN J. IMMERMUT, OSB#96314
United States Attorney
Mark O. Hatfield U.S. Courthouse
1000 S.W. Third Avenue, Suite 600
Portland, OR 97204-2902

THOMAS L. SANSONETTI

Assistant Attorney General
Environment and Natural Resources Division
JEAN E. WILLIAMS, Chief
Wildlife and Marine Resources Section

s/ Kristen L. Gustafson

KRISTEN L. GUSTAFSON, Trial Attorney
Wildlife and Marine Resources Section
Environment and Natural Resources Division
United States Department of Justice
Ben Franklin Station, P.O. Box 7369
Washington, D.C. 20044-7369
(202) 305-0211 (tel.)
(202) 305-0275 (fax)

MARGOT ZALLEN
Office of the Solicitor
United States Department of the Interior

ATTORNEYS FOR DEFENDANTS